

### **REMARKS**

Applicants appreciate the Examiner's thorough examination of the subject application and request reconsideration of the subject application based on the foregoing amendments and the following remarks.

Claims 1-36 are pending in the subject application.

Claims 1-36 stand rejected under 35 U.S.C. §102. Claim 32 was objected to because of an identified informality.

Claims 1-36 were canceled in the instant amendment without prejudice to prosecuting them in a continuing application.

Claims 37-40 were added to more distinctly claim embodiments/aspects of the present invention.

The amendments to the claims are supported by the originally filed disclosure.

During preparation of the within Response Applicants noticed a typo in paragraph [0005] on page 3 of the subject application. The specification was amended to correct the typo. The amendment to the specification does not introduce new matter because it is editorial in nature as well as being supported by the originally filed disclosure.

### **CLAIMS 37-40**

As indicated above, claims 1-36 were canceled and replaced by claims 37-40 which were added to more distinctly claim embodiments/aspects of the present invention. These claims are clearly supported by the originally filed disclosure, including the originally filed claims.

It also is respectfully submitted that these added claims are patentable over the cited prior art on which the above-described rejection(s) of claims 1-36 was/were based. In this regard, Applicants make the following observations regarding the present invention, Uchikoga [US Pub. No. US 2001/0005447] and Hirayama [US Pub. No. US 2002/0083472].

As described in the present invention, there are applications of many different types and sources being created and are capable of being loaded or disseminated to a wide variety of devices (telephones, DVD recorders, hybrid DVD recorders and computers, there is (a) an

increasing risk that the application or content being downloaded is an unauthorized copy or (b) an increasing risk of corruption, alteration or unauthorized copying to data and/or applications that are found on the device or on other devices that can be communicatively coupled to the device. As also described in the subject application (*e.g.*, see paragraphs [0015] - [0016] the present invention is directed to constraining access, at the time of execution or reproducing the content being executed, so as to limit in appropriate circumstances, the content's ability to access to local resources not involved with such reproducing or execution can be constrained or limited. As also described in the subject application this is done automatically, for example, at the time of an installation or load process, or during a data read or write process at the time of a execution of the content.

Uchikoga is not concerned with controlling access to local resources but rather is directed to controlling access to the content to be played back so that there is no copying of an altered or unauthorized copy of content to the device. Uchikoga does describe various processes so that an unauthorized user cannot gain access to the copied content (*e.g.*, blocks access to any adult content) or so that expired content cannot be accessed by an authorized user (*e.g.*, a temporal limit on the ability to access the content, like a rental). However, Uchikoga does not anywhere describe a process or methodology where the content being executed is controlled by a processing unit. The paragraphs referred to the Office Action as describing blocking access are, as indicated, above directed to limiting one's access to the content or the playback of such content.

In sum, Uchikoga does not describe, nor teach or suggest the recording and reproducing apparatus as set forth in the claims.

Uchikoga describes in paragraph [0114] a process for preventing playback or execution of the content which has already been reproduced. In this regard, reference should be made to paragraph [0042] which defines what is meant by playback. As described in paragraph [0082] in Uchikoga, playback can be inhibited by attaching temporal information to a loaded program or a key code in authentication processing. By establishing appropriate checks in the process when

using the playback mode switching unit or the extended navigator holding unit, the temporal information or key can be used by the information playback apparatus 1 or to inhibit playback. Similarly, Uchikoga describes in connection with the execution of Processes A-D, these processes also can be used to inhibit playback.

In addition, the keycode discussion in Uchikoga describes a process for inhibiting playback of stream data that has already been downloaded.

In claim 27, Applicants claim an AV data managing method for managing an AV data reproduction process with the use of management information of the AV data. Such a method includes an associated AV data/management information acquiring step of acquiring a plurality of associated AV data associated with AV data recorded in a recording medium and management information of the AV data and adding associated management information for the associated AV data for managing the reproduction process of the associated AV data, the associated management information data not being included in the management information in the recording medium.

Hirayama describes an information providing system and related method which allows the arrangement of clips (*i.e.*, program clips and the commercial (CM) clips) to be modified from that reproduced from a first transmission of clips. The program clips and the CM clips obtained by receiving those broadcast in a first transmission are stored in recorded result storage section 11. A so-called rearrangement examining section 15 carries out a processing operation of comparing the attributes of each of the clips and the applicable profile data generated by applicable profile generating section 14. Then, the sequence of reproducing the contents clips is modified on the basis of the result of the processing operation. The download operating section 16 downloads the contents clips to be added on an on-demand basis. Then, the final arrangement section 17 rearranges the sequence of reproducing the contents clips including those to be added to set up the final arrangement for playback or display on the monitor or television operably coupled to the set top box embodying the information providing system of Hirayama.

As described throughout Hirayama, the program data and the commercial clips ( also referred to auxiliary materials in Hirayama) are downloaded from a server to a recording/reproduction device. The program clips and commercial clips downloaded from the server can be updated using a couple of techniques. In one technique, the server outputs new clips to the recording/reproduction device which then updates its records so that correct clips are outputted for watching them on the television. In the other technique, attributes are provided with the program and commercial clips and information regarding the user as well as other information (*e.g.*, temporal information) is used to determine if one downloaded commercial clip should be replaced by another downloaded commercial clip. If yes, then the recording/reproduction device updates the playback order of the program clips and commercial clips so that the replacing commercial clips are outputted.

As indicated by Federal Circuit, in deciding the issue of anticipation, the trier of fact must identify the elements of the claims, determine their meaning in light of the specification and prosecution history, and identify *corresponding elements* disclosed in the allegedly anticipating reference (emphasis added, citations in support omitted). *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, 730 F. 2d 1452, 221 USPQ 481,485 (Fed. Cir. 1984). In concluding that the `770 Patent did not anticipate the claims, the Federal Circuit in *Lindemann Maschinenfabrik GMBH v. American Hoist and Derrick Company et al.*, at 221 USPQ 485-486, further provides that:

The `770 patent discloses an entirely different device, composed of parts distinct from those of the claimed invention, and operating in a different way to process different materials differently. Thus, there is no possible question of anticipation by equivalents. Citations omitted.

As can be seen from the foregoing remarks, the apparatus described in either reference functions and operates in a different manner from that of the claimed invention and the method disclosed and taught in either reference is completely different from that claimed and taught by Applicants. Thus, there can be no disclosure or teaching in respectively of either of the two references, of Applicants' invention.

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It is respectfully submitted that the subject application is in a condition for allowance.  
Early and favorable action is requested.

Applicants believe that additional fees are not required for consideration of the within  
Response. However, if for any reason a fee is required, a fee paid is inadequate or credit is owed  
for any excess fee paid, the Commissioner is hereby authorized and requested to charge Deposit  
Account No. **04-1105**.

Respectfully submitted,  
Edwards Angell Palmer & Dodge, LLP

/ William J. Daley, Jr. /

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